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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 18 November 1996 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General

I have the honour to enclose the response of the Government of the Sudan to the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan.

I should be grateful if the present letter and its enclosures could be circulated as a document of the General Assembly, under agenda item 110 (c).

(Signed) Elfatih M. ERWA
Permanent Representative

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ANNEX

Response of the Government of the Sudan to the interim report on the situation of human rights in the Sudan prepared by Mr. Gaspar Biro, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1996/73 of 23 April 1996

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I. INTRODUCTION

1. At the outset the Government of the Sudan would like to welcome the objective and constructive remarks made by the Special Rapporteur (SR) in some paragraphs of the interim report including the following:-

   (a) The conclusion contained in paragraph 44 to the effect that , "the creation of the Special Committee, within the framework of the Consultative Council for Human Rights, and its investigation of allegations and the establishment of individual responsibility for crimes that are found to have been committed, is to be regarded as a positive step forward concerning the extremely serious question of slavery and similar institutions and practices".

   (b) On the willingness of the Government of the Sudan to extend invitations which would guarantee the transparency of the investigations, the SR has, in paragraph 43, expressed, "his full support regarding this invitation and he considers the realization in practice of this idea to be of the utmost importance concerning the issue of slavery and similar institutions and practices". And in this connection the Government of the Sudan would like to assure the SR that the idea has been realized in practice as would be explained in detail in Part 11 (B) of this response.

   (c) The recommendation contained in paragraph 52 (a) that the UN General Assembly and the international community "give priority to supporting the effective measures of a practical nature undertaken by the Government of Sudan to investigate all reported human rights violations " . Indeed the Government of the Sudan has been appealing for such support since 1991 and we hope that the call of the SR would find an immediate positive response.

(d) The recommendation contained in paragraph 52(b) that the UN General Assembly and the international community, "give priority to supporting the effective measures of a practical nature undertaken by the Government of the Sudan to improve the flow of information between the competent United Nations bodies and agencies."

2. It is the understanding of the Government of the Sudan that such objective and constructive remarks by the SR are in full conformity with Article 1 (3) of the Charter of the United Nations which defines the purposes of the United Nations as including the achievement of, "international CO-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

3. In the light of such constructive approach, , the Government of the Sudan reaffirms its willingness to CO-operate fully with the SR despite the fact that it does not share the views expressed by the SR in many paragraphs of the interim report as would be explained in detail in this response. Moreover, we believe that the development of such attitude, rather than a confrontational attitude, would foster the common cause of promotion and protection of human rights, whether in the Sudan or anywhere else.

4. Having noted those overriding considerations, we introduce our response by referring to the fact that it is the fourth response submitted by the Government of the Sudan to the General Assembly since 1993. The history of the cooperation with the SR, our comments on the terms of reference of the mandate and on the legal framework are contained in our previous responses submitted to the Commission on Human Rights, the latest of which is contained in document (E/CN.4/1996/145) dated 2 April 1996.

5. Immediately after the adoption of Resolution 73/1996 of the Commission on Human Rights and after receiving the request made by the SR to visit the country, the Government of the Sudan has, in

compliance with its promise to cooperate with the SR, responded positively to the request.

6. The one postponement of the visit referred to by the SR was requested so as to enable the Government to make the necessary arrangements contemplated by operative paragraph 6 of Resolution 73/1996.

7. During the visit the SR has opted to concentrate on consultations with the competent Government authorities regarding recent measures undertaken by the Government in the field of human rights, including investigation of reported violations, with special emphasis on steps aimed at improving the situation of human rights in the Sudan.

8. Despite the fact that the SR has preferred to devote his visit to concentrate on consultations with the competent Government authorities, the SR has, in paragraph 2 of the interim report, referred to the fact that he has received numerous reports, information and testimonies regarding grave violations of human rights, especially violations mentioned in Resolution 73/1996, which have taken place since the renewal of his mandate in April 1996. Furthermore, the SR has noted those alleged violations, word by word, in paragraph 3 of the interim report.

9. We submit that such reference to the alleged violations and to the reports, information and testimonies received by the SR in that connection is unfair to the Government of the Sudan, since the SR has , by his own choice, opted not to verify such alleged violations by seeking reliable information as called for by his mandate, despite the fact that his presence in the country during 1-6 August 1996, would have given him an excellent opportunity to do so in a satisfactory manner.

10. Such reference by the SR to the alleged violations, before any verification is made, is very serious and should have been avoided, since it distorts the image of the Government irrespect of the outcome of the verification. Moreover, the violations are not specific but of a general nature and leaves no room for comment or explanation ".. summary executions, extrajudicial killings , arbitrary arrests, detention

without due process".. etc. It is understandable to find such language in resolutions, but to find the same language in the reports of the SR is unacceptable since his visit to the country should have given him the opportunity to report in specific terms giving, for example, specific figures, names and places.

11. CONSULTATIONS

11. Our protest contained in paragraphs 7-10 above is justified by the reference in paragraph 4 of the interim report to the effect that the SR will address reports and analyze information on grave violations of human rights in the Sudan in the final report to the Commission on Human Rights due in 1977.

A. The Advisory Council for Human Rights

12. For the purpose of setting the record right, the Council referred to in paragraph 6 is called the Advisory Council for Human Rights (ACHR), and was originally established as a coordination committee in 1992, but was later upgraded by a presidential decree to become an advisory council.

13. The recent activities of the ACHR include the following:-
    (a) Supervising the preparation of the periodic report of the Government of the Sudan under the International Covenant on Civil and Political Rights (five volumes) which has already been completed and is in process of being submitted to the Human Rights Committee.
    (b) Supervising the preparation of the periodic report of the Government of the Sudan under the African Charter of Human Rights .
    (c) Making the necessary arrangements for the visit of the Rapporteur of the Commission on Human Rights on Religious intolerance to Khartoum which has already taken place including the preparation of a note about the legal regime governing religious tolerance in the Sudan.

(d) Making the necessary arrangements for the visit of the delegation of the African Commission on Human Rights to Khartoum scheduled for 1-7 December 1996.

(e) Follow-up the implementation of the observations of the treaty body established under the International Agreement on the Elimination of All Forms of Racial Discrimination, including the request to amend the Sudan Penal Code so as to include racial discrimination as being a criminal offense. And we refer in this connection to the fact that the ACHR has already supervised the preparation of the periodic report of the Government of the Sudan under the above mentioned International Agreement.

(f) Providing logistic support for the investigation of the case of the twenty seven school boys brought to the attention of the Government of the Sudan by the letter of the SR dated 6 September 1996. The investigation team is scheduled to leave for Juba during 13-20 November 1996.

(g) Responding to the different communications addressed to the Government of the Sudan regarding alleged violations of human rights. For example the letter of Human Rights Watch dated 12 September 1996 was responded to immediately (appendix 1).

(h) Extending an invitation to the Working Group on Contemporary Forms of Slavery to send a delegation to the Sudan (appendix 2).

B. Special Investigation Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery.

14. Regarding the reference in paragraph 8 of the interim report that the Special Investigation Committee was created in May 1996, we would like to make the following clarifications:-

(a) By Resolution No. (1) of the Minister of Justice and Chairman of the Advisory Council for Human Rights dated 4 February 1996 the Committee was created to investigate cases of enforced or involuntary disappearances.

(b) By Resolution No.(2) dated 5 March 1996 the mandate of the Committee was extended to include the investigation of cases of alleged slavery and similar practices.

(c) By Resolution No.(3) dated 11 May 1996 the formation of the Committee was reviewed to give it more credibility.

15. As for the reference in paragraph 10 that during the past four years there have been consistent reports that the army of the Government of the Sudan and the Popular Defense Forces (PDF) have been ordered to collect civilians , mainly, women, children and elderly, from villages in which they have gained control from SPLA and to take these civilians to areas controlled by the Government of the Sudan, it seems that there is some misunderstanding on the part of the SR since the villages in which the Government forces have gained control from SPLA would become themselves a government controlled areas. Nevertheless, the fact of the case is that the Government policy is to declare certain suitable areas regained from the rebel forces as "peace villages" where the Government would maintain the presence of Government forces at all times to protect these areas against future attacks from rebel forces. And in addition to that the Government would provide humanitarian assistance to all civilians and make available some services and resources to enable the people to cultivate the land and maintain a normal life. Such policy encourages the civilians mainly women, children, and elderly to live in the peace villages, and the Government usually encourages such voluntary movement of population since it is practically impossible to provide food and protection for all civilians if they remain scattered all over the areas regained from the rebel forces. Therefore, it is inaccurate to state that the Government forces are collecting civilians without explaining the proper context of the situation. Furthermore, the civilians are free to move into or out of such peace villages, and many foreign observers have visited such villages and commended the efforts of the Government.

16. On the other hand, and in the same paragraph, there is another unfair reference to the effect that, "the SR as well as a large number of independent sources have consistently and constantly reported over the

past years on violations and abuses committed against the civilian population in the area of the Nuba Mountains by all parties to the conflict, including extrajudicial killings, deportations, abductions, looting and enforced mass displacement", as far as the Government of the Sudan is concerned, since such sweeping generalization, would not give the Government any opportunity to defend itself. Moreover, the SR has previously visited the area and should have been able to give details of such violations e.g. names, places, dates....etc. since, according to his mandate, the SR is supposed to seek reliable information, otherwise the Government would not be in a position to respond to such sweeping generalizations, and would request that such references not to be taken into consideration.

17. The Government of the Sudan notes with interest the remark made by the SR in paragraph 11 that concerning reports of enforced or involuntary disappearances it is necessary to establish and maintain contacts among all interested parties in order to clarify all aspects and to prevent such incidents, and the Government is ready to consider any specific measures to be proposed by the SR in this connection.

18. Although the Government of the Sudan has not signed the additional Protocol to the Geneva Convention of 12 August 1949, relating to the protection of victims of non-international armed conflicts (Protocol 11), as has been rightly observed by the SR in paragraph 11, we submit, in the light of the explanations given in paragraph 15 of this response, that the movement of the civilian population after fighting has taken place against the rebels is in conformity with the relevant provisions of the Additional Protocol, in particular the principles set forth in articles 4 and 17. Therefore, the investigation of alleged cases of disappearances by the Government, as well as other previously reported violations and abuses taking place in Southern Sudan and the Nuba Mountains, should be considered as being conducted in a satisfactory manner.

19. Although the duration of the Special Committee's mandate is not defined by a set date, as has been rightly observed by the SR in paragraph 8, its first activity report (disappearances) which was due by 15 August 1996 has already been submitted. Moreover, the Committee

has been instructed to make its final report on disappearances before 11 May 1997, one year from the date of its establishment.

20. The reference in paragraph 14, to the effect that since 1993 the SR has received consistent reports on slavery, slave trade and similar practices as being practiced in Al-Dhein, is unfair since the SR has the occasion to take the matter up with the Committee, but he has never done so. And we avail ourselves of this opportunity to urge him to communicate all his concerns to the Committee, giving the necessary details which would enable the Committee to investigate the matter in depth. Moreover, we do not understand why the SR has not made use of his visit to the Sudan during 1-6 August 1996 to investigate such practices, whether in Al-Dhein or in other locations as indicated in E/CN.4/1994/48, paragraph 63 (c), and E/CN.4/1996/62.

21. If the Dinka women and children were abducted by members of PDF during the past three years, as indicated in paragraph 14, then the traders of the Arab Rizeighat tribe in Nyamlell would not be in a position to be involved in their family reunification, as mentioned in the same paragraph, since the PDF work under the command of the Government armed forces, and not under the command of the traders of the Arab Rizeighat. And we once again fail to understand why the SR has declined to investigate such allegations while he was in the Sudan, and we urge him to hand over copies of the recent reports, referred - to in paragraph 14, to the Special Committee to include them in the investigations. However the SR himself is supposed to verify and investigate the reports he receives, and not confine himself to the repetition of the contents of such reports which are nothing more than mere allegations which need to be substantiated. And we submit that such repetition is unfair to the Government of the Sudan since it would be understood as an endorsement of their content, despite the fact that they have not been verified by the SR.

22. Regarding the inadequate funding of the activities of the Special Committee referred-to in paragraph 16, the Advisory Council for Human Rights was able to allocate more financial resources to the activities of the Committee including more than 500,000 LS. as incentives, and 650,000 LS. to finance its visit to Juba to investigate

some of the allegations contained in the letter of the SR dated 6 September. Furthermore, the Advisory Council is in the process of getting approval for the budget submitted by the Committee for the year 1997 which amounts to 25,000,000 LS. In addition to that, the Advisory Council is sparing no efforts in calling for logistic support to the activities of the Committee, and in this connection we make particular reference to our letter No. (MJ/Human Rights/77/29) dated 30 October 1996 addressed to the Resident Representative of the Untied Nations office in Khartoum (appendix 3).

Recommendations by the SR made during the meeting with the Special Committee

23. During the meeting with the Special Committee, the SR made useful recommendations regarding the methodology of its work, as contained in paragraphs 18-22 of the interim report, and the letter dated 6 September 1996. The Advisory Council for Human Rights has been closely following up the implementation of those recommendations, and the response of the Government of the Sudan in this connection is as follows:

24. Regarding its mandate of investigating cases of disappearances, a time frame has been set up for the Committee, as recommended by the SR, since as has already been indicated instructions have been given to the Committee to complete investigating disappearances by 11 May 1997, one year from its establishment. Bearing in mind the fact that the Committee has already submitted its two progress reports by 15 August, as called for by its mandate provided for in Resolution No. 3 dated 11 May 1996. As for the other mandate of investigating cases of slavery and similar practices, it is difficult to contemplate whether the Committee would be standing body that shall carry out its mandate indefinitely or an ad hoc body whose existence is limited, since the progress report already submitted shows that the Committee was not able to do much work in the field of investigating slavery due to the weather conditions, and, therefore, it would be premature to set a time frame right now. And we believe that it might be possible to do so after the Committee submits a second progress report.

25. As for the recommendation that the existence and the activities of the Committee should be publicized by the media, including radio and television broadcasts, the Committee has commenced recently regular media coverage, using funds made available by the Advisory Council, including the front page of the daily newspaper (Al-Sudan Al-Hadieth), which is widely quoted in all news bulletins of the radio and television (appendix 4). Such calls encourages all those who possess information related to the pertinent issues to share them with the Committee, and the calls are themselves an adequate assurance that such persons would not suffer reprisals, negative consequences or any other disadvantages.

26. The Committee has already involved representatives of local authorities and representatives of local communities in its activities and is intending to maintain such involvement on regular basis.

27. We believe that all the conditions for international participation, in the form of technical cooperation and advisory assistance, are guaranteed as contemplated in paragraph 21 of the interim report, and we are open to receive any suggestions by the SR in this connection.

28. After its scheduled visit to Juba during 13-20 November 1996 to investigate the case of the 27 school boys and the case of Mr. Anthon Ilario as requested by the SR in his letter dated 6 September 1996, the Committee is planning a visit to Wau to investigate the case of the children allegedly abducted from villages along the Babanusa-Wau railroad in June-July 1993.

C. Higher Authority for Elections

29. The Presidential and National Assembly election has taken place in March 1996 and not 1995. More than 50 foreign observers have come to the Sudan to observe the election process all over the country, including representatives of the United Nations Electoral Unit, observers from the OAU, representatives of the OIC, and representative of the Arab League.

30. The statement made by the election observers of the OAU includes the following remarks, "the OAU election observer Mission to the Sudan led by Ambassador Kemoko Keita arrived in the Sudan on 4 March 1996 and observed the election process for its duration including the counting of the ballots. The OAU Mission was based in Khartoum and traveled extensively through the country. The elections in the Sudan was clearly much more than just another routine opportunity for the people to exercise their democratic right to choose their representatives. The elections is a historical occasion, the first direct Presidential elections in the Sudan and the first time the voters in the newly democratic States have the opportunity to select their representatives to the new National Assembly."

31. Also the representative of the Arab League who has observed the elections has described it as an important constitutional development. Likewise, the representative of the OIC have made similar positive remarks.

D. Khartoum State Committee for Human Rights Education

32. Khartoum State Committee for Human Rights Education, being one of such committees of the 26 States in the country, was established in response to the request made by H. E. Mr. Jose Ayala-Lasso, the High Commissioner for Human Rights in his letter dated 6 November 1995. The request was addressed to all countries members of the UN, in furtherance of the Human Rights Education Decade 1995-2004. And we believe that the Government of the Sudan is one of the few Governments, if not the first Government, which has responded positively to such request. Therefore, such committee has nothing to do with the discussion of the 1995 and 1996 resolutions by the General Assembly and the Commission on Human Rights on the situation of human rights in the Sudan. And the Government of the Sudan should have been given credit for such initiative. Moreover, we expect the SR to recommend the allocation of some resources to develop the activities of such Committees in the Sudan in the field of human

rights' education, which is a long term plan for better promotion and protection of human rights.

E. Deputy Speakers of the National Assembly, the Chairman and Members of the Human Rights Committee and Representatives of the Women's Caucus of the National Assembly

33. Despite the assurance alluded to in paragraph 25 of the interim report, the Government of the Sudan is proceeding with its efforts to investigate the allegations of slavery and similar practices in a manner satisfactory to the international community. On the other hand, the Government of the Sudan is keen to undertake concrete steps in order to respond in an effective way and to improve the situation of human rights in the Sudan.

F. Chief Justice and Justices of the Supreme Court

34. The reference in paragraph 27 of the interim report that the President of the Republic is the guardian of the Judiciary, and that the Judiciary is responsible before the President for the performance of its functions, should be read and understood in the light of the strong guarantees for its independence and impartiality provided for in section 61 of Constitutional Decree 13/1995, namely:-

(a) The affairs of the judiciary (financial, administrative, and technical) shall be organized by the High Judicial Council presided over by the Chief Justice himself.

(b) The judge shall be guided by the concept of supremacy of the Constitution and law, and he shall adhere to this concept without inequity or fear or favour of any one save God.

(c) Judges are independent in the performance of their duties, and they shall have full judicial power in exercising their functions, and no one shall exercise, directly or indirectly, any influence on them.

G. Khartoum State Ministry for Engineering Affairs

35. According to the statistics contained in paragraph 28, the efforts of the Government of the Sudan in legalizing the status of 364,000 families (almost 2.5 million people) during the past few years, deserve to be commended and supported by the international community, talking into consideration the fact that such legalization includes the commitment of resources in allocation of lots of land to every family and in providing some basic services. Such support is urgently needed since 3,444 families are still to be accommodated. However, developmental support is needed more than temporary relief supplies.

H. Higher Council for Peace

36. The fact referred to in paragraph 30 that some former members of John Garang led SPLA - mainstream were detained by the faction itself for many years, supports the Government analysis that the primary causes of the armed conflict in the South are political and not of an ethnic, religious or cultural nature.

37. On the other hand the reference in the same paragraph 30 that, as long as the armed conflict continues, violations of human rights will not come to an end, justifies the view point expressed by the Government of the Sudan time and again that the majority of the allegations of human rights violations in the Sudan should be understood in the context of the armed conflict and not as a deliberate policy of the Government. And in this connection we refer to the fact that the efforts of the Government to find a peaceful solution for the armed conflict have been continuing non-stop since 1989, and, undoubtedly, the signature of the Peace Charter on 10 April 1996 is a significant step in the right direction, and deserves the support and encouragement of the international community as a whole.

38. On the other hand the Government of the Sudan is well aware of the importance of the satisfaction of the basic needs of the population in Southern Sudan to food and shelter which was referred-to by the signatories of the Peace Charter. The measures taken by the Government in this connection include the creation of the National Development Organization in 1991 with very broad goals, as has been explained to the SR, ranging from the training of teachers to activities in the banking sector, and ending with efforts made towards the realization of plans assuring self-sufficiency for the population in Southern Sudan, which is the most important objective.

I. Basic Principles of the New Political System

39. The basic principles of the political system implement in the Sudan include the following:-

(a) The separation of power between the legislature, the executive and the judiciary.

(b) The independence of the judiciary.

(c) The accountability of the executive before the legislature.

(d) Political equality for all citizens with guarantees for the largest possible political participation assuring the participation of different segments of the society in decision-making, such as youth, women, various social groups, trade unions and other civil organizations.

(e) Direct democracy as a better alternative for political parties which are not prerequisites of democracy.

(f) Promotion and protection of human rights and fundamental freedoms, including religious freedom without compulsion of any sort.

(g) Supremacy of the rule of law and justice.

J. Office of the Sudanese Commissioner for Refugees

40. In this connection we would like to underline the major concerns already alluded to by the Government relevant authorities who have met the SR, namely:-

(a) That the Sudanese refugees currently abroad encounter several difficulties and are living in abject conditions.

(b) No measures had been taken to prevent recent massacres of Sudanese refugees despite the clear responsibility of the rebels for such massacres and for the abduction of children from the Sudanese refugee camps.

(c) The requests that had been made by the representatives of the Government of the Sudan to visit the Sudanese refugee camps had turned down.

(d) A large number of Sudanese refugees had not been allowed to repatriate.

(e) Lack of equality in treatment of countries receiving refugees and the continuous declining of international assistance to the Sudan, despite the fact that the Sudan has accommodated over one million refugees over the past 30 years.

41. We look forward to the promise of the SR that he will address the issue in more detail in his final report to the Commission on Human Rights.

K. Ministry of Social Planning

42. It is interesting to note that the SR, in paragraph 34 of his interim report, has blamed the Government of the Sudan for not providing him with specific information, except the general allegation that hundreds of boys were taken by SPLA to Cuba. As it is clear the Government has in fact provided some specific information, namely, the "faction" which has taken the children and the "place" where the children were taken. Ironically, the SR himself has on many occasions accused the Government of the Sudan of "summary executions, extrajudicial killings, arbitrary arrests, detentions without due process of law.. etc." without giving any specific information regarding the names, the places or the dates pertaining to those alleged violations.

43. Furthermore, we find, in the same paragraph, a reference by the SR that, " one of the boys was reportedly arrested and tortured by the security in Kosti in mid 1995," and we hope that the SR would be in a

position to provide some "specific information" which would enable us to investigate such allegation.

L. General Federation of Sudanese Women

44. It is worth mentioning that, in the field of eradication of traditional harmful practices, the chairperson of the Commission on Human Rights' Mechanism for eradication of traditional harmful practices has commended the Sudan as one of three countries, world-wide , which have taken concrete measures in this connection. Such reference was made in the report submitted to the Sub-Commission on the Prevention of Discrimination and Protection of Minorities in August 1996.

45. On the Other hand we strongly urge the SR to call for financial support for the Medical Center for Victims of Traditional Harmful Practices created in Khartoum in December 1995, since the serious financial problems have compelled the center to focus only on psychological treatment. Moreover, we urge him to include in such call financial support for the similar institution which the Federation of Sudanese Women is intending to open in El-Fasher.

M. Sudan Council of Voluntary Agencies

46. Since the SR agrees with the Sudan Council of Voluntary Agencies that all NGOs personnel active in the Sudan and working in accordance with internationally recognized principles of humanitarian law have the right to be protected and conduct their work without harassment, we expect him to take up the matter of the several cases of the killings of national NGOs staff members, including the killing in Malakal of Muwafaq Foundation Staff members and the detention of a member of the Islamic African Relief Organization for 10 years by the rebels.

47. We fully support the request made to the SR by representatives of the Sudan Council of Voluntary Agencies on 6 August 1996 to help the national NGOs achieve their goals, including the following:-
    (a) Funding of humanitarian projects.
    (b) Capacity building.
    (c) Creation of a conducive atmosphere for cooperation with international NGOs and United Nations agencies.
    (d) Give special attention to the right to development by urging the developed countries to provide the necessary funds.

N. Sudanese Jurists Union

48. The creation of the Sudanese Jurists Union deserves to be commended by the SR as a positive addition in the field of the protection and promotion of human rights in the Sudan. And it is the policy of the Government of the Sudan to encourage the civil society to organize itself in NGOs, especially in the field of the protection and promotion of human rights.

III. CONCLUSIONS AND RECOMMENDATIONS

(A) Conclusions

49. Unfortunately we are not in a position to comment on the reports which the SR has continued to receive, since the renewal of his mandate in April 1996, about the alleged violations of human rights in the Sudan, since the SR has not disclosed the contents of such reports, despite the fact that he has visited the Sudan during 1-6 August 1996.

50. We submit that the SR is not justified in concluding, in paragraph 41 of his interim report, that the frequency and seriousness of these reports proves that, since April 1996 the situation of human rights in the Sudan, in certain areas, has deteriorated at an unprecedented pace as

compared to the previous years. The reasons for our submission are as follows:-

(a) According to the mandate of the SR he is obliged to verify such reports by seeking reliable information and not to draw conclusions on the basis of such reports before verification.

(b) The Government of the Sudan has given the SR the opportunity to verify such reports by receiving him in Khartoum during 1-6 August 1996, nevertheless, he has declined to make any efforts to verify such reports and has opted to devote his visit to consultations with Government authorities on different issues. Not only that, but the SR has not even disclosed the contents of such reports to the Government authorities.

Therefore , and in the light of the above, the Government of the Sudan wishes to emphasize that the international community should consider as invalid and inapplicable to the present situation the provisions of Resolution 1996/73 of April 1996 of the Commission on Human Rights that endorsed the conclusions of his previous reports.

51. Our point of view expressed in paragraph 50 above is further supported by the admission made by the SR himself in paragraph 42 of his interim report where he has stated that, "an analysis of all these reports will be included in the final report to the Commission on Human Rights. The present interim report concentrates on consultations held with the Government of the Sudan officials during the visit to the Sudan in August 1996". Obviously, the SR is requesting the international community to accept his conclusions based on these reports before he analyzes such reports and before verifying their contents.

52. Also we do not believe that anyone would be able to understand the conclusion of the SR in Paragraph 43 (a) of his interim report to the effect that the Political Agenda of the Government will not change since the principles and the basic regulations laid down in constitutional decrees 1-13 as amended will be strictly observed in the policy-making process and no change will be made to these principles and basic regulations. The obvious reason for our submission is the fact that the constitutional decrees 1-13 which contain the Political

Agenda of the Government, as has been rightly said by the SR, have not been promulgated at one time but during several years, since the Constitutional Decree No.1 was promulgated in 1989 while the Constitutional Decree No. 13 was promulgated in 1996. On the other hand, and to give a concrete example of the changes introduced by these decrees, we refer to the organization of the legislative power, as an example. According to the Constitutional Decree No. 1 such power was vested in the Revolutionary Command Council (RCC), then after its dissolution the legislative power was vested by the Constitutional Decree No. 5 in the Transitional National Assembly (appointed body), then afterwards the Constitutional Decree No.5 was repealed by the Constitutional Decree No. 13 and the legislative power was vested in the National Assembly (elected body).

53. Having made the explanations referred-to above, we fail to understand what the SR means by the remark that " the Political Agenda of the Government will not change", and we appreciate very much if he can tell us what kind of change he would like to see in the Political Agenda of the Government of the Sudan.

54. We fully agree with the conclusion contained in paragraph 43(a) of the interim report to the effect that with every new day without peace, the suffering of the citizens, regardless of their social status, ethnic origin or religious affiliation are deepening and the efforts required to rebuild the basic infrastructure facilities and to return life to normal will increase, and that one of the consequences of this situation is that the Sudan needs now and in the foreseeable future substantial external assistance. And we would like to see this conclusion reflected in any resolution adopted.

55. Also we agree with the conclusion of the SR contained in paragraph 43(b) to the effect that at the level of public discourse, some important questions related to the situation of Human Rights are now being addressed by Government Officials and among the most important are reports of slavery and similar institutions and practices together with the situation of certain categories of children.

56. Regarding the statement released by the Ministry of External Relations in July 1996 on the issue of slavery and slavery like practices , it is to be noted that the statement was released in a Press Conference and was made available in Arabic and English languages to all those who have attended the Press Conference, and it was only an oversight on our part that the SR was not provided with a copy of the statement and we offer our apologies to him. Therefore, the Government has already disseminated the statement to a broader audience.

57. With regard to the reference made by the SR that he expressed his full support to the involvement of the international community on the issue of slavery, and that he considered the realization in practice of this idea to be of utmost importance, we draw his attention to the fact that the Government of the Sudan has taken concrete measures in this connection by extending an invitation to the Working Group on Contemporary Forms of slavery to send a delegation to the Sudan (Annex 2). Moreover, the Government of the Sudan has welcomed a delegation of the African Commission on Human Rights to come and visit the Sudan during 1-7 December 1996.

58. We appreciate the objective and constructive remarks of the SR, contained in paragraph 44, to the effect that he considers the creation of the Special Committee to investigate allegations of slavery as a positive step.

59. The SR should not be amazed if he was not informed by the Government of some important developments and activities, since to make achievements in certain fields the handling should be in a manner different from the confrontational approach, taking into account the social and cultural particularities.

60. Regarding the situation of children, the Government of the Sudan appreciates the recognition of the SR of the steps undertaken by the Government in order to ensure the organizational framework of the work at the level of different State organs and agencies, and also his recognition of the efforts made towards a larger decree of cooperation between the Government and International Organizations, in particular the UNICEF office in Khartoum.

61 The Government also appreciates the welcoming by the SR of the opening of a center for traumatized children in Juba in August 1996.

62. There is no legislation affecting in a negative way the situation and activities of different Christian Churches and denominations in the Sudan, as referred to in paragraph 47, and indeed if there is such legislation, the churches and their institutions in Khartoum State alone, would not have reached more than 200 units.

63. Since the SR will address the problems referred - to in paragraph 47 in detail in his final report, we see no point in responding to them right now. And they should not have been mentioned by the SR in the first place.

64. We share the views expressed by the SR regarding the importance of a continuous, substantial and effective flow of information between the Government of the Sudan and the United Nations bodies and agencies dealing with human rights' issues, including the SR. And as a practical application of this understanding the Government of the Sudan has, after the visit of the SR to Khartoum in August 1991, received Mr. Abdel Fatah Omer, the Rapporteur on Religious Intolerance of the Commission on Human Rights. Moreover, the Government has already extended an invitation to the Rapporteur on Freedom of Expression.

(B) Recommendations

65. The provisions of the previous resolutions on the situation of human rights in the Sudan, referred - to in paragraph 3 of the interim report, should not be taken in consideration, since the SR has not, during his August 1996 visit to the Sudan, verified the allegations contained in such provisions, nor has he sought reliable information to substantiate them.

66. To perform the functions referred - to in paragraph 51(a) of the interim report, the Advisory Council for Human Rights would need technical and material support.

67. The Government of the Sudan assures the international community that all those who provide information or submit complaints regarding violations of human rights will not suffer any reprisals, negative consequences or any other disadvantages.

68. We request the SR to be more specific regarding the definition of the terms of reference of the mandate of the Special Committee. As for the duration in time of the Committee we have already explained the time frame fixed for investigating disappearances, and we are in the process of doing likewise with regard to investigations of slavery.

69. The recommendations of the SR to ensure wide publicity of the activities of the Special Committee has already been compiled with. However, the findings of the Committee in its 15 August 1996 progress report, are the same as the briefing given to the SR during his recent visit to Khartoum.

70. The Government of the Sudan has taken note of the other recommendations address to it.

71. The Government of the Sudan adds its voice to the SR in urging the UN General Assembly and the international community to: -

(a) Give priority to supporting the effective measures of a practical nature undertaken by the Government of the Sudan to investigate alleged human rights violations.

(b) Give priority to supporting the effective measures of a practical nature undertaken by the Government of the Sudan to improve the flow of information.

72. The UN General Assembly should disregard the recommendation contained in paragraph 52(c) of the interim report regarding the placement of human rights field officer to monitor the situation of human rights in the Sudan since the open-door policy adopted by the Government of the Sudan in the field of human rights has facilitated the improved flow of information and assessment and has fostered independent verification of reporting. Such policy is evidenced by the recent visit to the Sudan by the Special Rapporteur himself and the

Rapporteur on Religious intolerance and by the invitations extended to the Working Group on Contemporary Forms of Slavery and the Rapporteur on Freedom of Expression. Furthermore such policy is evidenced by the expected visit to Sudan of the delegation of the African Commission on Human Rights scheduled for 1-7 December 1997.

73. In the light of the positive developments in the field of humans rights in the Sudan, the UN General Assembly is kindly urged to discontinue the consideration of the situation of human rights in the Sudan and to take it off its agenda.

APPENDIX 1

Letter from the Rapporteur of the Advisory Council for Human Rights to Human Rights Watch

Referring to your fax message (incomplete) dated 12 September 1996 please note the following:

(1) The trial is not secret and is properly conducted under the People's Armed Forces Act 1986 which is more or less similar to armed forces laws worldwide. Attached herewith is some media coverage of the trial.

(2) Regarding the opposition of Human Rights Watch to the death penalty we believe that we are entitled to hold different views on that issue.

(3) In fact there are 10 civilians among the accused persons, some of them retired army officers, but the proper legal procedures have been followed since the Commander-in-Chief (the President of the Republic) has by his letter dated 13 August 1996 obtained the consent of the Minister of Justice to subject such civilians to military trial in accordance with section 4 of the above-mentioned Act.

(4) Able defence lawyers are defending the accused persons led by Advocate Dafaala Al Radi. In fact the defence lawyers were able to suspend the court sessions by petitioning the Minister of Justice to join them in challenging the offer of pardon to one of the civilian accused persons to give testimony against the others. The petition is now under consideration by the Minister of Justice.

APPENDIX 2

Letter dated 26 June 1996 from the Permanent Representative of the Sudan to the United Nations Office at Geneva addressed to the Chairman of the Working Group on Contemporary Forms of Slavery

I have the honour to convey to you an invitation extended by the Government of the Sudan to the Working Group on Contemporary Forms of Slavery to send a delegation to the Sudan to discuss with the concerned authorities the allegations and accusations of slavery in the country. The Working Group is, of course, free to establish contact with any person or group it deems necessary for the implementation of its mandate.

The time of the visit will be agreed upon in due course.

I would appreciate receiving your kind response to enable me to relay it to the competent authorities, in order to make the necessary arrangements for the success of the visit.

(Signed) Ali Ahmed SAHLOUL
Ambassador
Permanent Representative

APPENDIX 3

Letter dated 30 October 1996 from the Rapporteur of the Advisory Council for Human Rights to the Resident Representative, United Nations Office at Khartoum

The Committee established by the Advisory Council for Human Rights to investigate allegations of slavery is intending to visit Juba and Wau in response to the request of Mr. Gaspar Biro, the Special Rapporteur on the situation of human rights in the Sudan, contained in his letter dated 6 September 1996.

I wonder if there is any possibility for the Committee to use your chartered flights to Juba and Wau since the budgetary arrangements will take some time and we are keen to explore all possibilities to enable the Committee to conduct the investigation without any delay.

If you are in a position to respond positively to our request, the number of seats needed and the dates of departure and return are to be agreed upon with Advocate Ali Elnasri, the Chairman of the Committee, tel. 775055.

(Signed) A. ELMUFTI
Rapporteur of the Advisory Council
for Human Rights

APPENDIX 4

[Original: Arabic]

Announcement by the Special Investigation Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery, published in the newspaper Al-Sudan al-Hadith on 6 November 1996

MINISTRY OF JUSTICE

Special Investigation Committee on Allegations of Enforced or Involuntary Disappearances and Reported Cases of Slavery

The Committee inquiring into cases of enforced disappearance and allegations of slavery and practices similar to slavery announces that it will accept and investigate any complaints or other communications concerning these matters that it receives from citizens.

The Committee requests citizens who have information in their possession or who have allegations to make concerning cases or practices of this type in any part of the Sudan to communicate with it promptly, on a Wednesday, through its office in the General Law Department of the Ministry of Justice.

Ali Ahmad AL-NASRI
Chairman of the Committee